

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Public Notice. Spectrum Needs for the Implementation of the Positive Train Control Provisions of the Rail Safety Improvement Act of 2008	DA No. 11-838 WT Docket No. 11-79
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Filed on ULS in the captioned docket.

SkyTel Ex Parte Written Presentation, October 21, 2011
In Response to AMTRAK's October 20, 2011 filing

First, SkyTel corrects the date stated on its last filing in the title: the correct date is October 20, 2011 (not October 25, 2011). Page 3 of Mr. Lindsey's report (p. 7 of the filing) should not have yellow highlighting (but for the legend on the bottom): that was inadvertent error.

Herein, SkyTel comments on the AMTRAK filing, via its legal counsel, in this docket of October 20, 2011 which included the following:

As you are aware, we represent the National Passenger Railroad Corporation ("Amtrak") in its efforts to implement the positive train control ("PTC") provisions of the Rail Safety Improvement Act of 2008 ("RSIA") over its rail lines in the Northeast Corridor. In our continuing effort to advise our client as to the potential sources of spectrum in the 217-222 MHz band that it might use, we have reviewed available public records relating to Auction 89 to determine which spectrum in the 217-218 MHz and 220-222 MHz bands, covering the counties along the Northeast Corridor from Washington, DC through Boston, Massachusetts, remains in the FCC's "inventory". To the extent it may be useful to the Commission's consideration of opportunities available to the agency to assist the rail industry in meeting the Congressional mandates of the RSIA, I am happy to provide this work product for your review.

(1) The above AMTRAK statement implies that the RSIA mandate includes particular spectrum in the noted 217-222 MHz-range, and in particular quantities, *but it simply does not*, and it is lack of candor to continue with said suggestions. See filings in this docket by Mr. Ron Lindsey, and secondarily by SkyTel.

(2) The above implies that AMTRAK needs more spectrum for PTC, *but it has not*

shown that need. It has not clearly shown in this docket its current inventory of spectrum, how that is being used (the data and other uses, the technology and systems, the capacity used and remaining, the spectrum efficiencies or lack thereof, etc.), and thus, there is no need demonstrated for more spectrum for PTC, including by special allocation, reallocation, waiver or other special favors and actions by the FCC.

Also, it has not shown the need or justification for the *rule waivers* it has asserted are needed in the AMTS band (see docket 11-27), and that also appear to be needed in the other bands within 217-222 MHz.¹ Any rule waiver need showing would start with showing of need for the particular spectrum range and quantity, and AMTRAK does not show that. *Simply citing a Congressional Act is not a free-pass to get what one wants from the FCC or anyone*. The PTC “safety card” is being abused, not unlike abuse of the 9-11-2011 tragedy.

(3) The attached charts are not clear, or in themselves sufficient. One chart is empty (and appears to have been mistakenly attached, unless the FCC asked for it). The filled-in chart appears to have numbers that mean kHz of unpaired spectrum. But, (i) spectrum quantities *per se* is not sufficiently informative of how said spectrum can lawfully and practically be used. Paired spectrum cannot be used as transmit only, for example, without waivers and consideration of the affects on adjacent and co-channel licensees and operations. And (ii) under FCC rules and

¹ Converting the 218 MHz spectrum and service to the PTC high power purposes, especially if all of the spectrum can be used for base-station or train-station transmit, is likely to have adverse affects on adjacent AMTS spectrum operations. A technical study would be needed on this matter.

Also, the effects of high power PTC on TV Channels 10 and 13 appears needed for the same reason they were established for AMTS: the decades-old “Eckert Report” *[*]* based on old analog TC transmitters and receivers needs updating, as described by in this docket, since current TV stations and receivers are digital, etc. See filings in this docket by Hammett & Edison (broadcast engineers, expert in this area). SkyTel supports a proper technical approach to wireless as the foundation of spectrum policy and regulation, and agreed with Hammett & Edison on this. 218 MHz and 220-222 MHz, if used for high power operations (as AMTS was conceived) for PTC is as close to some parts of TV Channels 10 and 13 as parts of the AMTS bands are.

[]* “Eckert Report” copy here: <http://transition.fcc.gov/oet/info/documents/technical/tm82-5.pdf>

radio-use reality, one cannot use spectrum fully in a county up to its borders: not if the same spectrum is licensed to someone else across that border, which this chart implies. That is due to FCC rules on co-channel licenses with adjacent licenses having rights to the same signal strength at their common borders, which creates a radio-coverage “no-mans’ land” for substantial distances on each side of the border (if licensees do not privately agree to resolve this, such as by time sharing, or splitting the spectrum at the border and on each split, arranging for workable S/I ratios along the border, etc.). That is especially the case with this fairly low 220 MHz range spectrum and with fairly high power allowed, and the increased power AMTRAK stated it wanted to use (see docket 11-27, with the instant docket).

SkyTel takes the position that *candid* presentations need to be made in the matters of this docket, and that is best done by in-person presentations (by physical and telephonic attendance) including the most involved parties. The real push for 217-222 MHz, and the quantities involved, is not from Congress, and not for PTC *per se*, but from PTC 220 LLC for its private for-profit purposes. Railroads in the past obtained from the FCC substantial 900 MHz for an asserted safety function, but that did not occur, yet the spectrum was kept. The FCC should not, without proof and a full and open public record with proper debate, act again to give railroads, or any one of them, special attention and special spectrum-licensing relief. That will not help but will hurt practical Intelligent Transportation Systems (in which PTC is a component) that is sorely needed in the nation.

[Execution on next page.]

Respectfully,



Warren C. Havens

President of each of the following entities

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